

SENATE BILL 430

Unofficial Copy  
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2004 Regular Session  
(4lr1619)

**ENROLLED BILL**

-- Education, Health, and Environmental Affairs/Appropriations --

Introduced by **Senators Conway, Britt, Currie, Della, Exum, Hughes, Jones, Kelley, Lawlah, and McFadden** **McFadden, and Gladden**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Higher Education - Morgan State University - Coordination and**  
3 **Governance**

4 FOR the purpose of ~~authorizing the Maryland Higher Education Commission to~~  
5 ~~review and comment on the operating and capital budgets of the Board of~~  
6 ~~Regents of Morgan State University only within a certain context; prohibiting~~  
7 ~~the Commission from recommending against a certain budget item except under~~  
8 ~~certain circumstances; providing that the powers of the Board of Regents~~  
9 ~~regarding the management of Morgan State University are subject to~~  
10 ~~restrictions imposed by law if the law makes specific reference to the University;~~  
11 ~~designating Morgan State University as a certain body, a certain~~  
12 ~~instrumentality, a certain corporation, and a certain unit of State government;~~  
13 ~~authorizing the University to exercise certain corporate powers, adopt a certain~~  
14 ~~seal, maintain a certain office, enter certain contracts, acquire, hold, lease, use,~~  
15 ~~encumber, transfer, exchange, or dispose of certain property, and borrow certain~~  
16 ~~money; repealing a certain limitation on the number of positions that may be~~

1 created; authorizing the Board of Regents to sue and be sued and to carry  
 2 certain liability insurance; authorizing the Board of Regents to make a certain  
 3 determination regarding certain insurance; providing for a certain application of  
 4 the Maryland Tort Claims Act; providing for the construction of certain  
 5 immunity of the University; authorizing the Board of Regents to acquire, lease,  
 6 encumber, sell, or dispose of certain real or personal property; specifying that all  
 7 property of the University is property of the State; exempting the University from  
 8 a certain division of the State Finance and Procurement Article; requiring the  
 9 Board of Regents to develop certain policies and procedures that govern certain  
 10 procurements; requiring the Board of Regents to develop a certain information  
 11 technology plan; ~~authorizing the Board of Regents to establish, invest in,~~  
 12 ~~finance, and operate certain businesses or certain business entities under~~  
 13 ~~certain circumstances; clarifying a certain business entity; clarifying a certain~~  
 14 ~~financial obligation; requiring the Board of Regents to submit a certain report;~~  
 15 exempting the University from certain changes relating to information  
 16 technology; requiring the University and St. Mary's College of Maryland to  
 17 include a certain list of certain expenditures for certain capital improvements;  
 18 exempting the University from certain provisions relating to certain  
 19 telecommunication systems or services; clarifying that the University ~~is a unit~~  
 20 and St. Mary's College of Maryland are units of State government; ~~exempting~~  
 21 ~~certain public improvements made by the University from the Capital~~  
 22 ~~Improvement Program; repealing a certain provision regarding a certain~~  
 23 ~~engineering question or a certain public improvement; removing a certain~~  
 24 ~~reference to a certain public improvement in a certain definition; repealing a~~  
 25 ~~certain reversion~~; requiring a certain procurement to comply with certain  
 26 policies and procedures; requiring certain policies of the University to comply  
 27 with certain provisions regarding the purchasing of supplies and services and to  
 28 promote certain purposes; subjecting the University to certain provisions of a  
 29 certain division of the State Finance and Procurement Article; specifying that  
 30 the State Board of Contract Appeals has certain authority subject to certain  
 31 conditions; exempting the University from a certain review of a certain contract  
 32 for certain expenditures; subjecting a certain contract for certain expenditures  
 33 to certain approval; ~~specifying that certain procurement of supplies, services,~~  
 34 ~~and construction by the University is included in a certain subtitle; defining~~  
 35 certain terms; requiring the publisher of the Annotated Code, in consultation  
 36 with and subject to the approval of the Department of Legislative Services, to  
 37 correct certain references; and generally relating to Morgan State University.

38 BY renumbering

39 Article - Education

40 Section ~~14-102(a) through (e) and 14-104(b) through (n), respectively~~

41 to be Section ~~14-102(b) through (f) and 14-104(c) through (o), respectively~~

42 Annotated Code of Maryland

43 (2001 Replacement Volume and 2003 Supplement)

44 ~~BY repealing~~

45 ~~Article - State Finance and Procurement~~

1 ~~Section 4-410~~  
 2 ~~Annotated Code of Maryland~~  
 3 ~~(2001 Replacement Volume and 2003 Supplement)~~

4 BY repealing and reenacting, with amendments,  
 5 Article - Education  
 6 ~~Section 11-105(i)(4) and, 14-101, and 14-104(a)~~  
 7 Section 14-101 and 14-104(a)  
 8 Annotated Code of Maryland  
 9 (2001 Replacement Volume and 2003 Supplement)

10 BY repealing and reenacting, with amendments,  
 11 Article - Education  
 12 Section 14-104(g)(3)  
 13 Annotated Code of Maryland  
 14 (2001 Replacement Volume and 2003 Supplement)  
 15 (As enacted by Section 1 of this Act)

16 BY adding to  
 17 Article - Education  
 18 ~~Section 14-102(a), 14-104(b) and (p), 14-109, and 14-110~~  
 19 Section 14-104(b) and (p) and 14-109  
 20 Annotated Code of Maryland  
 21 (2001 Replacement Volume and 2003 Supplement)

22 BY repealing and reenacting, with amendments,  
 23 Article - State Finance and Procurement  
 24 ~~Section 3-401, 3-602(c), 3-703(a), 4-401(d), 4-402(a), 4-406(a) and (b),~~  
 25 ~~5-7B-01(d)(1)(v), 7-306(a), 11-203(e), 12-202, and 14-202(a) and 12-202~~  
 26 Annotated Code of Maryland  
 27 (2001 Replacement Volume and 2003 Supplement)

28 BY repealing and reenacting, without amendments,  
 29 Article - State Finance and Procurement  
 30 Section 4-402(a), 4-406(a) and (b), 5-7B-01(d)(1)(v), and 7-306(a)  
 31 Annotated Code of Maryland  
 32 (2001 Replacement Volume and 2003 Supplement)

33 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 34 MARYLAND, That Section(s) ~~14-102(a) through (e) and 14-104(b) through (n),~~  
 35 respectively, of Article - Education of the Annotated Code of Maryland be renumbered  
 36 to be Section(s) ~~14-102(b) through (f) and 14-104(c) through (o),~~ respectively.

1 ~~SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 4-410 of~~  
 2 ~~Article State Finance and Procurement of the Annotated Code of Maryland be~~  
 3 ~~repealed.~~

4 SECTION ~~3.~~ 2. AND BE IT FURTHER ENACTED, That the Laws of  
 5 Maryland read as follows:

6 **Article - Education**

7 ~~44-105.~~

8 (i) ~~(4) In submitting recommendations pursuant to paragraph (2) of this~~  
 9 ~~subsection, the Commission shall comment on the overall level of funding for higher~~  
 10 ~~education in order to achieve the goals established in the State Plan for Higher~~  
 11 ~~Education, and may comment regarding funding priorities among segments of higher~~  
 12 ~~education and, within public senior higher education, among institutions. In~~  
 13 ~~reviewing the various budgets and submitting recommendations thereon, the~~  
 14 ~~Commission:~~

15 (i) ~~May not require, of any segment or institution, a detailed~~  
 16 ~~budget presentation that tends to duplicate other presentations required in the~~  
 17 ~~budget process;~~

18 (ii) ~~As to the funding priority of any institution, may comment only~~  
 19 ~~on the entity as a whole and not on any separate unit of the institution; and~~

20 (iii) ~~As to the operating and capital budgets of the Board of Regents~~  
 21 ~~of the University System of Maryland AND THE BOARD OF REGENTS OF MORGAN~~  
 22 ~~STATE UNIVERSITY:~~

23 1. ~~May review and comment only within the broad context of~~  
 24 ~~the State Plan for Higher Education; and~~

25 2. ~~May not recommend against a budget item approved by~~  
 26 ~~the Board of Regents unless the item is clearly inconsistent with the State Plan for~~  
 27 ~~Higher Education.~~

28 ~~14-101.~~

29 (A) There is a Morgan State University, which:

30 (1) Has the responsibility, with other educational institutions, for  
 31 providing higher education research and graduate study in the Baltimore area;

32 (2) Is the State's public urban university with a mission of instruction,  
 33 research, and service;

34 (3) Offers baccalaureate and graduate degrees in the arts and sciences;

35 (4) Emphasizes an education addressing urban concerns; and

1 (5) Offers the professional and graduate programs approved by its Board  
2 of Regents and the Maryland Higher Education Commission.

3 (B) (1) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
4 INDICATED.

5 (2) "BOARD OF REGENTS" MEANS THE BOARD OF REGENTS OF MORGAN  
6 STATE UNIVERSITY.

7 (3) "UNIVERSITY" MEANS MORGAN STATE UNIVERSITY.

8 ~~14-102.~~

9 ~~(A) (1) THERE IS A BODY CORPORATE AND POLITIC KNOWN AS MORGAN  
10 STATE UNIVERSITY.~~

11 ~~(2) THE UNIVERSITY IS AN INSTRUMENTALITY OF THE STATE AND A  
12 PUBLIC CORPORATION.~~

13 ~~(3) THE UNIVERSITY IS AN INDEPENDENT UNIT OF STATE  
14 GOVERNMENT.~~

15 ~~(4) THE EXERCISE BY THE UNIVERSITY OF THE POWERS CONFERRED BY  
16 THIS SUBTITLE IS THE PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION.~~

17 ~~14-104.~~

18 (a) In addition to any other powers granted and duties imposed by this  
19 subtitle, and subject to the provisions of Title 11 of this article and any other  
20 restrictions [expressly] imposed by law BY SPECIFIC REFERENCE TO THE  
21 UNIVERSITY or by any trust agreement involving a pledge of property or money, the  
22 Board of Regents:

23 (1) Is responsible for the management of Morgan State University and  
24 has all the powers, rights, and privileges that go with that responsibility, including  
25 the powers and duties set forth in this section;

26 (2) May not be superseded in its authority by any other State agency or  
27 office in managing the affairs of Morgan State University; and

28 (3) Shall have all the powers of a Maryland corporation which are not  
29 [expressly] limited by law BY SPECIFIC REFERENCE TO THE UNIVERSITY.

30 (B) ~~IN ADDITION TO THE POWERS SET FORTH ELSEWHERE IN THIS SUBTITLE,  
31 THE UNIVERSITY MAY:~~

32 ~~(1) EXERCISE ALL THE CORPORATE POWERS GRANTED MARYLAND  
33 CORPORATIONS UNDER THE MARYLAND GENERAL CORPORATION LAW;~~

34 ~~(2) ADOPT AND ALTER AN OFFICIAL SEAL;~~

1           (3)     ~~MAINTAIN AN OFFICE AT THE PLACE THE BOARD OF REGENTS MAY~~  
2 ~~DESIGNATE;~~

3           (4)     ~~ENTER INTO CONTRACTS OF ANY KIND, AND EXECUTE ALL~~  
4 ~~INSTRUMENTS NECESSARY OR CONVENIENT WITH RESPECT TO ITS CARRYING OUT~~  
5 ~~THE POWERS IN THIS SUBTITLE TO ACCOMPLISH THE PURPOSES OF THE~~  
6 ~~UNIVERSITY;~~

7           (5)     ~~ACQUIRE, HOLD, LEASE, USE, ENCUMBER, TRANSFER, EXCHANGE, OR~~  
8 ~~DISPOSE OF REAL AND PERSONAL PROPERTY; AND~~

9           (6)     IN ADDITION TO THE POWERS SET FORTH IN TITLE 19 OF THIS  
10 ARTICLE AND SUBJECT TO THE APPROVAL OF THE BOARD OF PUBLIC WORKS,  
11 BORROW MONEY FROM ANY SOURCE FOR ANY CORPORATE PURPOSE, INCLUDING  
12 WORKING CAPITAL FOR ITS OPERATIONS, RESERVE FUNDS OR INTEREST, AND  
13 MORTGAGE, PLEDGE, OR OTHERWISE ENCUMBER THE PROPERTY OR FUNDS OF THE  
14 UNIVERSITY, AND CONTRACT WITH OR ENGAGE THE SERVICES OF ANY PERSON IN  
15 CONNECTION WITH ANY FINANCING, INCLUDING FINANCIAL INSTITUTIONS,  
16 ISSUERS OF CREDIT, OR INSURERS.

17       (g)     (3)     (i)     Notwithstanding any other provision of law, the Board of  
18 Regents may create any position to the extent that the cost of the position, including  
19 any fringe benefit costs, is funded from existing funds.

20                       (ii)     Nothing in this paragraph may be construed to require any  
21 additional State General Fund support.

22                       (iii)     By September 1 of each year, the Board shall submit an annual  
23 position accountability report to the Department of Budget and Management, the  
24 Department of Legislative Services, and the Maryland Higher Education Commission  
25 reporting the total positions created and the cost and the funding source for any  
26 positions created by the University in the previous fiscal year.

27                       [(iv)     The total number of positions authorized under this paragraph  
28 shall be limited as specified annually in the State budget bill.]

29       (P)     (1)     THE BOARD OF REGENTS:

30                       (I)     HAS THE POWER TO SUE OR BE SUED; AND

31                       (II)     MAY CARRY COMPREHENSIVE LIABILITY INSURANCE TO  
32 PROTECT THE BOARD OF REGENTS, ITS AGENTS, AND EMPLOYEES.

33                       (2)     THE DETERMINATION WHETHER TO PURCHASE INSURANCE, AND ITS  
34 SCOPE AND LIMITATIONS, SHALL BE WITHIN THE BOARD OF REGENTS' DISCRETION,  
35 TAKING INTO ACCOUNT COMMERCIAL AVAILABILITY AND AFFORDABILITY AND THE  
36 EXISTENCE AND EXTENT OF INSURANCE SECURED BY THE STATE TREASURER.

1 (3) (I) TITLE 12, SUBTITLE 1 OF THE STATE GOVERNMENT ARTICLE  
2 MARYLAND TORT CLAIMS ACT APPLIES TO CLAIMS OR ACTIONS AGAINST THE  
3 UNIVERSITY, THE BOARD OF REGENTS, AND EMPLOYEES OF THE UNIVERSITY.

4 (II) SUBJECT TO ALL EXCLUSIONS AND LIMITATIONS IN THAT  
5 SUBTITLE, THE IMMUNITY OF THE COLLEGE IS WAIVED TO THE EXTENT OF ANY  
6 INSURANCE COVERAGE PURCHASED UNDER THIS SUBSECTION.

7 (4) THIS SUBSECTION MAY NOT BE CONSTRUED TO WAIVE OR  
8 ABROGATE SOVEREIGN IMMUNITY WITH RESPECT TO ANY CLAIM THAT IS NOT  
9 COVERED BY OR EXCEEDS THE LIMITS OF AN INSURANCE POLICY.

10 (5) THIS SUBSECTION MAY NOT BE CONSTRUED TO WAIVE OR  
11 ABROGATE THE IMMUNITY OF THE UNIVERSITY UNDER THE ELEVENTH  
12 AMENDMENT TO THE UNITED STATES CONSTITUTION.

13 (6) (I) SUBJECT TO THE APPROVAL OF THE BOARD OF PUBLIC WORKS,  
14 THE BOARD MAY ACQUIRE, LEASE, ENCUMBER, SELL, OR OTHERWISE DISPOSE OF  
15 REAL PROPERTY HELD BY THE STATE FOR THE USE OF THE UNIVERSITY.

16 (II) THE BOARD MAY ACQUIRE, LEASE, ENCUMBER, SELL, OR  
17 OTHERWISE DISPOSE OF PERSONAL PROPERTY.

18 (III) ALL PROPERTY OF THE UNIVERSITY IS THE PROPERTY OF THE  
19 STATE.

20 14-109.

21 (A) (1) EXCEPT AS PROVIDED IN § 11-203(E) OF THE STATE FINANCE AND  
22 PROCUREMENT ARTICLE, THE UNIVERSITY IS EXEMPT FROM DIVISION II OF THE  
23 STATE FINANCE AND PROCUREMENT ARTICLE.

24 (2) (I) SUBJECT TO REVIEW AND APPROVAL BY THE BOARD OF PUBLIC  
25 WORKS AND THE ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW  
26 COMMITTEE OF THE GENERAL ASSEMBLY, THE BOARD OF REGENTS SHALL DEVELOP  
27 POLICIES AND PROCEDURES GOVERNING PROCUREMENTS BY THE UNIVERSITY.

28 (II) THE POLICIES AND PROCEDURES DEVELOPED UNDER  
29 SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL PROMOTE THE PURPOSES OF THE  
30 STATE PROCUREMENT LAW AS SET FORTH IN § 11-201 OF THE STATE FINANCE AND  
31 PROCUREMENT ARTICLE.

32 (B) THE BOARD OF REGENTS SHALL DEVELOP AN INFORMATION  
33 TECHNOLOGY PLAN FOR THE UNIVERSITY THAT INCLUDES INFORMATION  
34 TECHNOLOGY POLICIES AND STANDARDS, INCLUDING POLICIES AND STANDARDS  
35 FOR INFORMATION MANAGEMENT AND TELECOMMUNICATION SYSTEMS, THAT ARE  
36 FUNCTIONALLY COMPATIBLE WITH THE STATE INFORMATION TECHNOLOGY PLAN  
37 ESTABLISHED UNDER TITLE 3, SUBTITLE 4 OF THE STATE FINANCE AND  
38 PROCUREMENT ARTICLE.

1 14-110.

2 (A) ~~CONSISTENT WITH § 15-107 OF THIS ARTICLE AND ANY OTHER~~  
 3 ~~APPLICABLE LAW, THE BOARD OF REGENTS MAY ESTABLISH, INVEST IN, FINANCE,~~  
 4 ~~AND OPERATE BUSINESSES OR BUSINESS ENTITIES WHEN THE BOARD OF REGENTS~~  
 5 ~~FINDS THAT DOING SO WOULD FURTHER ONE OR MORE GOALS OF THE UNIVERSITY~~  
 6 ~~AND IS RELATED TO THE MISSION OF THE UNIVERSITY.~~

7 ~~(B) (1) A BUSINESS ENTITY ESTABLISHED, INVESTED IN, FINANCED, OR~~  
 8 ~~OPERATED IN ACCORDANCE WITH THIS SUBSECTION MAY NOT BE CONSIDERED AN~~  
 9 ~~AGENCY OR INSTRUMENTALITY OF THE STATE OR A UNIT OF THE EXECUTIVE~~  
 10 ~~BRANCH FOR ANY PURPOSE; AND~~

11 ~~(2) A FINANCIAL OBLIGATION OR LIABILITY OF A BUSINESS ENTITY~~  
 12 ~~ESTABLISHED, INVESTED IN, FINANCED, OR OPERATED IN ACCORDANCE WITH THIS~~  
 13 ~~SUBSECTION MAY NOT BE A DEBT OR OBLIGATION OF THE STATE OR THE~~  
 14 ~~UNIVERSITY.~~

15 ~~(C) THE BOARD OF REGENTS SHALL SUBMIT TO THE GOVERNOR AND, IN~~  
 16 ~~ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL~~  
 17 ~~ASSEMBLY, AN ANNUAL REPORT ON:~~

18 ~~(1) THE BUSINESS ENTITIES ESTABLISHED IN ACCORDANCE WITH THIS~~  
 19 ~~SECTION;~~

20 ~~(2) FUNDS INVESTED IN, AND FINANCING PROVIDED TO, BUSINESS~~  
 21 ~~ENTITIES ESTABLISHED IN ACCORDANCE WITH THIS SECTION;~~

22 ~~(3) OWNERSHIP INTERESTS IN ANY BUSINESS ENTITIES ESTABLISHED~~  
 23 ~~IN ACCORDANCE WITH THIS SECTION; AND~~

24 ~~(4) THE CURRENT STATUS OF THE BUSINESS ENTITIES.~~

25 **Article - State Finance and Procurement**

26 3-401.

27 (a) This subtitle does not apply to changes relating to or the purchase, lease,  
 28 or rental of information technology by:

29 (1) public institutions of higher education solely for academic or research  
 30 purposes;

31 (2) the Maryland Port Administration;

32 (3) the University System of Maryland; [or]

33 (4) St. Mary's College of Maryland; OR

34 (5) MORGAN STATE UNIVERSITY.

1 (b) Notwithstanding any other provision of law, except as provided in  
 2 subsection (a) of this section and §§ 3-403(c), 3-405(a)(2), 3-410.1, and 3-410.2 of this  
 3 subtitle, this subtitle applies to all units of the Executive Branch of State government  
 4 including public institutions of higher education other than MORGAN STATE  
 5 UNIVERSITY, the University System of Maryland, and St. Mary's College of Maryland.  
 6 3-602.

7 (c) Each request for a capital project by a unit of the State government,  
 8 including the University System of Maryland, ST. MARY'S COLLEGE OF MARYLAND,  
 9 AND MORGAN STATE UNIVERSITY, shall include a detailed list of all proposed  
 10 expenditures for capital improvements to be funded from grants or nonbudgeted  
 11 revenues.

12 3-703.

13 (a) The provisions of this subtitle may not apply to a telecommunication  
 14 system or service that is owned or operated by the University System of Maryland,  
 15 MORGAN STATE UNIVERSITY, or a unit of the Legislative or Judicial Branch.

16 4-401.

17 (d) "Public improvement" includes any construction, maintenance, or repair of  
 18 any building, structure, or other public work:

19 (1) owned or constructed by the State or any unit of the State  
 20 government, including the University System of Maryland, ST. MARY'S COLLEGE OF  
 21 MARYLAND, AND MORGAN STATE UNIVERSITY; or

22 (2) acquired or constructed in whole or in part with State funds.

23 4-402.

24 (a) (1) Except as provided in § 4-409 of this subtitle, this subtitle does not  
 25 apply to any public improvement made by:

26 (i) the Department of Transportation or a unit in that Department;

27 (ii) any housing authority created under Article 44A of the Code;

28 (iii) the Maryland-National Capital Park and Planning  
 29 Commission;

30 (iv) the Washington Suburban Sanitary Commission;

31 (v) the Baltimore County Metropolitan District;

32 (vi) a county, municipal corporation, or unit of a county or municipal  
 33 corporation; {or}

34 (vii) the University System of Maryland; ~~OR~~

1                    (VIII) ~~MORGAN STATE UNIVERSITY.~~

2                    (2)     Except as provided in §§ ~~{4-406, 4-410,}~~ ~~4-406~~ and 4-410.1 of this  
3 subtitle or as otherwise provided by law, St. Mary's College of Maryland ~~{and Morgan~~  
4 State University are} ~~IS~~ subject to the provisions of this subtitle.

5 4-406.

6                    (a)     (1)     ~~{~~Except as provided in paragraph (4) of this subsection, the~~}~~ ~~THE~~  
7 Department shall advise the Board of Public Works and any unit of the State  
8 government in connection with any engineering question or matter concerning a  
9 public improvement.

10                   (2)     The Department shall supervise any engineering question or matter  
11 concerning a public improvement.

12                   (3)     Any contract, plan, or specification for any public improvement that  
13 involves an engineering question:

14                             (i)     shall be submitted to the Department; and

15                             (ii)    is subject to the approval of the Department.

16                   (4)     ~~{~~With respect to any engineering question or a matter concerning a  
17 public improvement, the Department shall advise Morgan State University in  
18 accordance with the provisions of § 4-410 of this subtitle.

19                   (5)}     At the request of the Board of Public Works, the Department shall  
20 advise the Board of Public Works on any contract that exceeds \$500,000 if the  
21 contract involves an engineering question or a matter concerning a public  
22 improvement undertaken by the University System of Maryland ~~OR MORGAN STATE~~  
23 ~~UNIVERSITY.~~

24                   (b)     Except as provided in ~~{§§ 4-410 and 4-410.1}~~ ~~§ 4-410.1~~ of this subtitle, the  
25 Department shall:

26                             (1)     represent the Board of Public Works at the opening of bids for a  
27 public improvement;

28                             (2)     tabulate and record the bids; and

29                             (3)     advise the Board of Public Works on the bids.

30 5-7B-01.

31                   (d)     (1)     "Growth-related project" means only the items set forth below:

32                             (v)     except as provided in paragraph (2) of this subsection,  
33 procurement or funding of projects by the Department of General Services for:

- 1 leases of property by the State governed by §§ 4-318  
 2 through 4-321 of this article;
- 3 2. public improvements governed by {§§ 4-410 and 4-410.1}  
 4 § 4-410.1 of this article; and
- 5 3. land acquisition governed by §§ 4-411 through 4-416 of  
 6 this article.
- 7 7-306.

8 (a) This section applies only to {the following:

- 9 (1) Morgan State University; and
- 10 (2)} St. Mary's College of Maryland.

11 11-203.

12 (e) (1) [(i)] In this subsection [the following words have the meanings  
 13 indicated.

14 (ii) "Board of Regents" means the Board of Regents of the  
 15 University System of Maryland.

16 (iii) , "University" means the University System of Maryland OR  
 17 MORGAN STATE UNIVERSITY.

18 (2) Except as otherwise provided in this subsection, this Division II does  
 19 not apply to the University System of Maryland OR MORGAN STATE UNIVERSITY.

20 (3) (i) A procurement by [the] A University shall comply with the  
 21 policies and procedures developed by the University and approved by the Board of  
 22 Public Works and the Administrative, Executive, and Legislative Review Committee  
 23 of the General Assembly in accordance with § 12-112 OF THE EDUCATION ARTICLE  
 24 FOR THE UNIVERSITY SYSTEM OF MARYLAND OR § 14-109 of the Education Article  
 25 FOR MORGAN STATE UNIVERSITY.

26 (ii) 1. Any contract for services or capital improvements with a  
 27 value that exceeds \$500,000 shall require the review and approval of the Board of  
 28 Public Works.

29 2. In its review of a contract for services or capital  
 30 improvements with a value that exceeds \$500,000 the Board of Public Works may  
 31 request the comments of the appropriate agencies, including the Department of  
 32 Budget and Management and the Department of General Services.

33 (4) [The] A University's policies shall:

34 (i) to the maximum extent practicable, require the purchasing of  
 35 supplies and services in accordance with Title 14, Subtitle 1 of this article; and

1 (ii) promote the purposes of the regulations adopted by the  
 2 Department of General Services governing the procurement of architectural and  
 3 engineering services.

4 (5) (i) Except as provided in paragraph (7) of this subsection, the  
 5 following provisions of Division II of this article apply to [the] A University:

- 6 1. § 11-205 of this subtitle ("Fraud in procurement");
- 7 2. § 11-205.1 of this subtitle ("Falsification of material  
 8 facts");
- 9 3. § 13-219 of this article ("Required clauses -  
 10 Nondiscrimination clause");
- 11 4. § 13-225 of this article ("Retainage");
- 12 5. Title 14, Subtitle 3 of this article ("Minority Business  
 13 Participation");
- 14 6. Title 15, Subtitle 1 of this article ("Procurement Contract  
 15 Administration");
- 16 7. § 15-226 of this article ("Prompt payment of  
 17 subcontractors"); and
- 18 8. Title 16 of this article ("Debarment of Contractors").

19 (ii) If a procurement violates the provisions of this subsection or  
 20 policies adopted in accordance with this subsection, the procurement contract is void  
 21 or voidable in accordance with the provisions of § 11-204 of this subtitle.

22 (6) (i) The State Board of Contract Appeals shall have authority over  
 23 contract claims related to procurement contracts awarded by [the] ~~A University~~;

24 1. THE UNIVERSITY SYSTEM OF MARYLAND before July 1,  
 25 1999; AND

26 2. MORGAN STATE UNIVERSITY BEFORE JULY 1, 2004.

27 (ii) At the election of the Board of Regents ~~OF A UNIVERSITY~~ THE  
 28 UNIVERSITY SYSTEM OF MARYLAND and subject to the approval of the Board of  
 29 Public Works, the State Board of Contract Appeals shall have authority over contract  
 30 claims related to procurement contracts awarded by the University after June 30,  
 31 1999.

32 (III) AT THE ELECTION OF THE BOARD OF REGENTS OF MORGAN  
 33 STATE UNIVERSITY AND SUBJECT TO THE APPROVAL OF THE BOARD OF PUBLIC  
 34 WORKS, THE STATE BOARD OF CONTRACT APPEALS SHALL HAVE AUTHORITY OVER  
 35 CONTRACT CLAIMS RELATED TO PROCUREMENT CONTRACTS AWARDED BY THE  
 36 UNIVERSITY AFTER JUNE 30, 2004.

- 1 (7) Paragraphs (3), (4), and (5) of this subsection do not apply to:
- 2 (i) procurement by [the] A University from:
- 3 1. another unit;
- 4 2. a political subdivision of the State;
- 5 3. an agency of a political subdivision of the State;
- 6 4. a government, including the government of another state,  
7 of the United States, or of another country;
- 8 5. an agency or political subdivision of a government; or
- 9 6. a bistate, multistate, bicounty, or multicounty  
10 governmental agency; or
- 11 (ii) procurement by [the] A University in support of enterprise  
12 activities for the purpose of:
- 13 1. direct resale;
- 14 2. remanufacture and subsequent resale; or
- 15 3. procurement by the University for overseas programs.

16 12-202.

17 (a) This section does not apply to capital expenditures by the Department of  
18 Transportation or the Maryland Transportation Authority, in connection with State  
19 roads, bridges, or highways.

20 (b) Before execution, a contract for a capital expenditure other than in  
21 connection with a State correctional facility, St. Mary's College of Maryland, MORGAN  
22 STATE UNIVERSITY, or the University System of Maryland shall be:

23 (1) reviewed by the Secretary of General Services; and

24 (2) except as provided in § 12-203 of this subtitle and § 13-108 of this  
25 article, after that review, approved by the Board.

26 (c) Before execution, a contract for a capital expenditure in connection with a  
27 State correctional facility shall be:

28 (1) reviewed by the Secretary of Public Safety and Correctional Services;  
29 and

30 (2) except as provided in § 12-203 of this subtitle, after that review,  
31 approved by the Board.

1 (d) Before execution, a contract for a capital expenditure in connection with  
2 the University System of Maryland shall be:

- 3 (1) subject to the provisions of Title 4, Subtitle 4 of this article;
- 4 (2) approved by the Board of Regents of the University System of  
5 Maryland; and
- 6 (3) approved by the Board of Public Works.

7 (e) Before execution, a contract for a capital expenditure in connection with  
8 St. Mary's College of Maryland shall be:

- 9 (1) subject to the provisions of Title 4, Subtitle 4 of this article;
- 10 (2) approved by the Board of Trustees of St. Mary's College of Maryland;  
11 and
- 12 (3) approved by the Board of Public Works.

13 (F) BEFORE EXECUTION, A CONTRACT FOR A CAPITAL EXPENDITURE IN  
14 CONNECTION WITH MORGAN STATE UNIVERSITY SHALL BE:

- 15 (1) SUBJECT TO THE PROVISIONS OF TITLE 4, SUBTITLE 4 OF THIS  
16 ARTICLE;
- 17 (2) APPROVED BY THE BOARD OF REGENTS OF MORGAN STATE  
18 UNIVERSITY; AND
- 19 (3) APPROVED BY THE BOARD OF PUBLIC WORKS.

20 [(f)] (G) The Board shall supervise the expenditure of any money that the  
21 General Assembly appropriates for:

- 22 (1) buildings;
- 23 (2) equipment;
- 24 (3) new construction; or
- 25 (4) any other capital expenditure.

26 ~~14-202.~~

27 ~~(a) This subtitle applies to procurement of supplies, services, and construction~~  
28 ~~related services by:~~

- 29 ~~(1) the Department of General Services;~~
- 30 ~~(2) the Department of Transportation;~~

1           (3)     ~~the University System of Maryland; [and]~~

2           (4)     ~~MORGAN STATE UNIVERSITY; AND~~

3           (5)     ~~as provided in subsection (b) of this section, the Department of Public~~  
4 ~~Safety and Correctional Services in connection with construction of a State~~  
5 ~~correctional facility under § 12-107 of this article.~~

6       SECTION 4. 3. AND BE IT FURTHER ENACTED, That the publisher of the  
7 Annotated Code, in consultation with and subject to the approval of the Department  
8 of Legislative Services, shall correct all references to the Board of Regents of Morgan  
9 State University and Morgan State University, respectively, within Title 14, Subtitle  
10 1 of the Education Article of the Annotated Code to be the Board of Regents and the  
11 University, respectively.

12       SECTION 5. 4. AND BE IT FURTHER ENACTED, That this Act shall take  
13 effect July 1, 2004.